

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**C.W.P. No.9620 of 1988
Date of Decision:21.10.2008**

The Pepsu Road Transport Corporation, Patiala

.....Petitioner

Vs.

The Presiding Officer, Labour Court, Bhatinda and another

.....Respondents

CORAM:- HON'BLE MR. JUSTICE HARBANS LAL

Present:- Mr. Varinder Pal Singh, Advocate for the petitioner.

HARBANS LAL, J.

This petition has been moved by the Pepsu Road Transport Corporation, Patiala under Articles 226/227 of the Constitution of India for quashing the order dated 24.3.1988 Annexure P.1.

The brief facts giving rise to this petition are that Bagga Singh-respondent was placed under suspension on 11.5.1981 for committing misconduct. He was charge-sheeted and a departmental inquiry was held. Finally vide order dated 1.7.1985, he was awarded the punishment of stoppage of increment with cumulative effect with a further rider that he will not be paid anything over and above the subsistence allowance already drawn by him and the period of his suspension shall not be treated as period on duty. He filed an application under Section 33-C(2) of Industrial Disputes Act, 1947 (for short, 'the Act') claiming the arrears of salary for the suspension period as well as arrears of increment from 7.6.1981 to 7.6.1987 which was opposed. Vide impugned order dated 24.3.1988 Annexure P.1, the same was allowed by the Presiding Officer, Labour Court, Bhatinda.

None has come forward to argue on behalf of the respondent-Bagga Singh.

I have heard the learned counsel for the petitioner, besides perusing the findings returned by the learned Presiding Officer, Labour Court with due care and circumspection.

Mr. Varinder Pal Singh, Advocate appearing on behalf of the petitioner argued that the workman's right to the relief claimed could not be determined by the Labour Court under Section 33-C(2) of the Act. He further puts that the right of Bagga Singh- respondent to receive the arrears of salary and treating his suspension period as on duty with effect from 11.11.1981 was neither existing nor settled and that being so, the jurisdiction of the Labour Court was barred to hear the application.

I have well considered these submissions. Of course, as ruled in re: **M.D., Oswal Hosiery (Regd.) v. D.D. Gupta, 1994 LLR 487 (Del.)**, “once there is an admission of the existing right of the workman by the employer in regard to the benefit which the former is entitled to and receive from the later, section 33-C(2) of the Act would come into play.” Here in this case, it is to be determined as to whether there was any such admission on the part of the Corporation. The learned Presiding Officer, Labour Court, Bhatinda has observed in the impugned award as under:-

“ii) The workman was placed under suspension on 11.5.1981. His suspension till 10-11-1981 is lawful according to Regulation No.24 ibid w.e.f. 11.11.1981, the workman was entitled to full wages because he could not be kept under suspension beyond a period of six months. He is thus entitled to wages over and above the

subsistence allowance from 11.1.1981 to 4.3.1985. Such arrears of wages have been claimed at the rate of Rs.135/- P.M. The management has not challenged the rate at which the workman has claimed the arrears. The amount of arrears under this head from 11.11.1981 to 4.3.1985 work out to Rs.6570/-.

- iii) Under Regulation No.13(5) of the Regulations, the period of suspension is not to count towards increments. The increment of Rs.15/- which had otherwise fallen due on 7.6.1981 thus was deferred by a period of six months i.e., the period of legal suspension. The increment thus fell due on 7.12.1981. Arrears of incremental arrears from 7.12.81 to 5.6.1982 @ Rs.15/- P.M. work out to Rs.90/-.
- (iv) The next annual increments of Rs.20/- P.M. each fell due respectively on 7.6.1982, 7.6.1983, 7.6.1984 and 7.6.85 and 7.6.86 and the workman was entitled to receive from the employer arrears @ Rs.35/- (15+20) i.e., Rs.420/- till 6.6.83 @ Rs.55/- (35+20) i.e. 660/- till 6.6.84, Rs.75/- (55+20) i.e., Rs.900/- till 6.6.85, Rs.95/- (Rs.75+20) i.e., 1140/- till 6.6.1986 and @ Rs.115/- (95+20) i.e., Rs.1380 till 6.6.87, in all Rs.4300/-. I thus hold that a total sum of Rs.10,960/- is due by the Respondent to the workman.”

It is quite plain and patent from the above observations that the management has not challenged the rate at which the workman has claimed

the arrears. So, ostensibly, it tantamounts to admission of the existing right of the workman – respondent. Sequelly, I do not consider it proper to interfere with the impugned award in the exercise of writ jurisdiction under Articles 226/227 of the Constitution of India. Hence, this petition is dismissed.

October 21, 2008
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(HARBANS LAL)
JUDGE

Whether to be referred to the Reporter? Yes/No